



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

08/716,223 11/22/96 VAN SCHOUWENBURG G 961170

RICHARD L. BYRNE
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219-1818

A3M1/0626

EXAMINER

CAND. M

ART UNIT

PAPER NUMBER

1302

DATE MAILED:

06/26/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/716,223

Applicant(s)
VAN SCHOUWENBURG

Examiner
Milton I. Cano

Group Art Unit
1302



☒ Responsive to communication(s) filed on Sep 20, 1996

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-22 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-22 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 7

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-17 and 19-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1:

line 2: what does Applicant mean by "robust"?

Claim 4, line 4: how much is "considerably"? The term is relative lacking of comparative basis.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 5-7, 9-15, 17-18 and 21-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Weiner (U.S. Pat. No. 3,740,235).

See abstract; col. 1, lines 53-55; col. 2, lines 35-40 and 50-69; and col. 4, line 37-
col. 5, line 40.

4. Claims 1, 2, 4, 5-7, 9-15, 18 and 21-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by van Schouwenburg (U.S. Pat. No. 4,680,183). See col. 1, line 58-col. 2, line 3; col. 2, lines 17-39 and 54-59.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8, 16, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiner or van Schouwenburg.

With regard to the temporary decrease in pH, one of ordinary skill in the art would have expected such decrease in pH on the interface between the smaller pieces of meat and the layer of solubilized proteins because both Weiner and van Schouwenburg add the at least one salt in which, forms the layer of solubilized proteins and no patentable difference has been found that would lead one skilled in the art to arrived at a different range of pH.

As to the step of treating the meat in a rotating drum, notice that the use of rotating drums to apply materials to meat products is notoriously well known to the skilled in the art.

Further, processing foodstuff in vacuum bags is also well known, for example, the processing of cooked ham.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton I. Cano whose telephone number is (703) 308-3959. The examiner can normally be reached on Monday-Friday from 7:30 AM to 4:00 PM.


Serial Number: 08/716,223
Art Unit: 1302

-4-

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Lacey, can be reached on (703) 308-3535. The fax phone number for this Group is (703) 305-3601.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.

MIC
June 22, 1997


Milton I. Cano
Primary Examiner
Group 1300